

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

JAMES M HAUSCHILD
Claimant

APPEAL NO. 10A-UCX-00024-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

PELLA CORPORATION
Employer

OC: 05-02-10
Claimant: Appellant (1)

Iowa Code § 96.4(3) – Able and Available
Public Law 97-362 – UCX Entitlement

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the June 7, 2010, reference 02, decision that denied benefits. After due notice was issued, a hearing was held on July 26, 2010. The claimant did participate. The employer did participate through Eric Johnson, Human Resources Representative.

ISSUE:

Was the claimant able to and available for work and is he eligible for UCX benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was on active duty with the military until May 1, 2010. According to his federal DD 214 form the claimant was honorably released from active duty with the military on May 1, 2010. He asked his employer, Pella Corporation, who had saved his job for him, for a leave of absence until June 14, 2010. The employer granted the request. The claimant did not make any job or work searches while on his leave of absence.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant does not meet the criteria to be entitled to receive UCX benefits.

5 U.S.C. 8521, as amended by Public Law 97-362, Section 201, provides:

(a) Eligibility requirements--paragraph (1) of section 8521(a) of title 5, United States Code, is amended to read as follows:

(1) "Federal service" means active service (not including active duty in a reserve status unless for a continuous period of 90 days or more) in the armed forces or the

Commissioned Corps of the National Oceanic and Atmospheric Administration if with respect to that service—

(A) the individual was discharged or released under honorable conditions (and, if an officer, did not resign for the good of the service); and

(B)(i) the individual was discharged or released after completing his first full term of active service which the individual initially agreed to serve, or

(ii) the individual was discharged or released before completing such term of active service--

(I) for the convenience of the Government under an early release program, (II) because of medical disqualification, pregnancy, parenthood, or any service-incurred injury or disability, (III) because of hardship, or (IV) because of personality disorders or inaptitude but only if the service was continuous for 365 days or more.

(b) Period for which benefits payable--section 8521 of such title 5 is amended by adding at the end thereof the following new subsection:

(c)(l) An individual shall not be entitled to compensation under this subchapter for any week before the fifth week beginning after the week in which the individual was discharged or released. (2) The aggregate amount of compensation payable on the basis of Federal service as defined in subsection (a) to any individual with respect to any benefit year shall not exceed 13 times the individual's weekly benefit amount for total unemployment.

(c) Effective date--

(1) In general--except as provided in paragraph (2), the amendments made by this section shall apply with respect to terminations of service on or after July 1, 1981, but only for purposes of determining eligibility for benefits for weeks of unemployment beginning after the date of the enactment of this Act.

(2) Transitional rule--the amendments made by this section shall not apply to the extent that such amendments would (but for this paragraph) reduce the amount of compensation payable in the case of benefit years established before the date of the enactment of this Act.

The claimant meets the criteria for an honorable discharge from the military pursuant to his DD 214 form and he was entitled to take the ninety-day leave of absence, however, he was required to make work searches during that period and did not do so. Thus, his claim for benefits must be denied.

DECISION:

The June 7, 2010, reference 02, decision is affirmed. The claimant is not eligible to receive UCX benefits.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/css